

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4474 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DURGA QUARRY WORKS

Versus

DEPUTY ENGINEER

Appearance:

MR KM SHETH for Petitioner

MR TUSHAR MEHTA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 15/07/97

ORAL JUDGEMENT

Rule.

Learned Counsel appearing for the respondent waives service of rule and the matter is taken up for final disposal at the request of both the sides.

The grievance of the petitioner was that his electricity supply was disconnected and supplementary bills were given without referring the matter to the

Electrical Inspector under Section 26(6) of the Indian Electricity Act, 1910. The Supreme Court in MPEB Vs. Basantbai - 1988 S.C 71 has held that in a case where the dispute relates as to whether the electricity meter is correct one or faulty and not recording the correct electrical energy consumed, such a dispute falls within the provisions of the said Act and as such it is the Electrical Inspector, who alone is empowered to decide the dispute. If the Electrical Inspector comes to the finding that the meter is faulty and due to some defect it has not registered the actual consumption of electrical energy, then the Inspector will estimate the energy consumed and will fix the amount to be paid in respect of such energy consumed within a period not exceeding six months. The learned Counsel appearing for the respondent Board submitted that the petitioner ought to have approached the Electrical Inspector. The meter was removed admittedly by the respondent Board and it was in their custody and therefore, it was for them to give it for testing to the Electrical Inspector under Section 26(6) of the said Act. There is no allegation of fraud against the petitioner. Therefore, if there is no tampering done with the meter and if it is not a case of fraud, then the meter is required to be checked by the Electrical Inspector under Section 26(6) of the said Act in the light of the ratio of the decision of the Supreme Court in MPEB's case (supra) and it is the Electrical Inspector alone who can ascertain the amount which is to be paid in respect of the energy consumed during the relevant period.

It is therefore directed that the respondent should get the meter tested by the Electrical Inspector under Section 26(6) of the said Act and on the basis of the amount that may be ascertained by the Electrical Inspector, proceed to recover the amount. The supplementary bills issued by the respondent Board without having got the meter inspected by the Electrical Inspector cannot therefore be allowed to operate and will therefore, be treated as inoperative. It is stated by the learned Counsel for the respondent Board on instructions from the concerned Officer that the electricity is already reconnected to the petitioner's premises on 12th July, 1997. Rule is made absolute according with no order as to costs.

*/Mohandas